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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,387	01/17/2002	Jian Ling Ding	17644-68	1539
33717	7590	06/03/2004	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			JOYNES, ROBERT M	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/053,387

Applicant(s)

DING ET AL.

Examiner

Robert M. Joynes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,4,9,11,12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5-8,10,13 and 18-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,9,11,12 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Receipt is acknowledged of applicants' Election filed on March 12, 2004.

#### ***Election/Restrictions***

Applicant's election with traverse of Group I and Species A in the Election dated March 12, 2004 is acknowledged. The traversal is on the ground(s) that sufficient burden does not exist to restrict the group/inventions. This is not found persuasive because the polymers recited have many different uses as both a film for uses such as roofing barriers (Davis et al. U.S. Patent No. 5563217) and in hydrocolloid dressings (Berg et al. U.S. Patent No. 4841962). Therefore the same polymer can be used in various forms other than medical purposes that would meet the requirements of the instant claims requiring an extension search of the prior art.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Berg et al. (US 4841962). Berg teaches a dressing comprising a backing barrier layer, a collagen matrix and a hydrocolloid adhesive layer (Col. 1, line 64 – Col. 2, line 19). The backing layer is comprised of EPDM (Col. 5, lines 4-68). The hydrocolloid adhesive is comprised of polyisobutylene, carboxymethylcellulose, pectin

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and gelatin as well as a tackifier and plasticizer (Col. 7, lines 27-61). The composition further comprises active agents (Col. 3, line 64 – Col. 4, lines 17). Therefore, the Berg reference teaches the limitations of instant Claims 1, 9, 12, 14 and 15.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in combination with Cilento et al. (US 6270794). The teachings of Berg are discussed above. Berg does not expressly teach the ratio of ethylene to propylene in the EPDM or the exact concentration of the hydrophilic material in the composition or the inclusion of butyl rubber.

Cilento teaches that a portion of the polyisobutylene matrix can be substituted with butyl rubber (Col. 2, lines 45-57). This polyisobutylene component helps bind the absorbing powder in the copolymer network.

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At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to varied the ratios of ethylene and propylene in the EPDM, to vary the concentration of the hydrophilic material in the composition and to add butyl rubber to the polyisobutylene matrix.

One of ordinary skill in the art would have been motivated to do this to provide the proper barrier permeation protection desired for the wound dressing, to vary the amount of moisture absorbed by the wound dressing and to provide a polyisobutylene matrix that helps bind the absorbing powders in the copolymer network.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in combination with Chen. The teachings of Berg are discussed above. Berg does not expressly teach that the wound dressing comprises a pigment.

Chen teaches that pigments are known component of adhesive hydrocolloid compositions (Col 5, lines 49-52).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to add a pigment to a wound dressing composition.

One of ordinary skill in the art would have been motivated to do this to provide a wound dressing that blends with the skin to which it is applied or provide protection for the drugs for environmental exposure.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

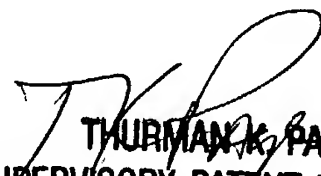
***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Joynes whose telephone number is (571) 272-0597. The examiner can normally be reached on Mon.-Thurs. 8:30 - 6:00, alternate Fri. 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert M. Joynes  
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